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December 1, 2004

**Via Federal Express**
The Honorable Michael Powell, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers,* WC Docket No. 01-338

Dear Chairman Powell:

We write to inform you of a situation in Maine we believe relevant to the Federal Communications Commission's (FCC) reconsideration of its *Triennial Review Order.* Trina Bragdon, a Staff Attorney with the Maine Public Utilities Commission, informally communicated this information to your special advisor, Aaron Goldberger, on November 29, 2004, and thus this letter serves both as compliance with the FCC's *ex parte* rules and as further explanation of the issue that has developed in Maine.

On November 16, 2004, Biddeford Internet Corporation, d/b/a Great Works Internet (GWI) filed a complaint with the MPUC pursuant to our Rapid Response Process.[1] (A copy of the filing is attached.) In its complaint, GWI alleged that it had attempted to migrate one of its DSL-only customers to a full loop, over which it intended to provide voice service, but had been unsuccessful because Verizon did not have a "hot cut" process in place that would allow for such a transition without a multiple-day outage of the customer's DSL service. Pursuant to our Rapid Response Process, Staff held a conference call on November 19, 2004, to discuss the complaint further and to hear Verizon's response. During that call, GWI explained that it required use of the full loop to provide both voice and DSL service and that a potential 5-day outage of an existing customer's DSL service in order to cutover the voice service was unacceptable. Verizon responded that while it wanted to look into the matter further, it believed that there was no process in place yet for hot cutting line shares to full loops. It did suggest that its "loop sharing" product might be an option. The parties agreed that a written update of the situation would be provided on November 24, 2004.

[1] Our Rapid Response Process was adopted during our Section 271 Inquiry and allows CLECs to file complaints relating to billing and operational issues with the Commission for swift, informal resolution by a team of MPUC staff.

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PHONE: (207) 287-3831 (VOICE) TTY: 1-800-437-1220 FAX: (207) 287-1039

On November 24, 2004, Verizon submitted its update *via* e-mail to the Rapid Response Team and GWI. (A copy of the e-mail is attached.) In its e-mail, Verizon stated that it was participating in an industry collaborative to develop a transition process for line sharing to full loops but that such a process did not exist today. Verizon also stated, both in the e-mail and in a follow-up conversation, that it will take several months, if not six months, for such a process to be put into place.

On November 30, 2004, a second conference call was held during which the parties further discussed alternative arrangements. It appears that a Verizon product/process called "loop sharing" may be an option for handling GWI's request. There remain however, many unanswered questions. Specifically, it is unclear whether the Verizon product is actually available, whether Verizon could meet GWI's volume demand, and what the costs associated with such a product include. In addition, GWI must first sign a loop share agreement - a document Verizon has already sent to GWI but which is written in a way that does not apply to GWI's situation, i.e. where the same CLEC offers both the voice and data. There also remain questions related to Verizon's OSS. We have directed the parties to discuss these matters in as much detail as possible and to provide an update on December 3rd which indicates whether the loop share arrangement is a realistic option for GWI and exactly when it will be available.

We bring this matter to your attention because the FCC may have relied upon arguments made by Verizon and other RBOCs during the *Triennial Review* proceeding that line sharing could, and should, be eliminated in order to encourage CLECs to use the full capabilities of the loop by offering both traditional voice services as well as broadband-enabled services. The FCC may have concluded, based on those arguments, that Verizon and the other RBOCs have the capability to allow for CLEC transition from line sharing to full loops. As Verizon's November 24th response indicates, Verizon does not have such a capability at this time. While Verizon's loop sharing product may work for GWI, it may not work for other CLECs with a different network configuration, in which case the CLEC will be faced with paying a higher rate for the loop without being able to offer voice service.

If you or your staff have any questions on this matter or if we can provide you with any further information, please let us know by contacting Trina Bragdon at (207) 287-1392. Thank you for your consideration.

Sincerely,

Thomas L. Welch
Chairman

Stephen Diamond
Commissioner

Sharon Reishus
Commissioner

cc: Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Commissioner Jonathan S. Adelstein
Marlene H. Dortch, Secretary
Thomas Navin, Div. Chief
John P. Stanley, Asst. Gen. Counsel
Aaron Goldberger, Special Asst.
Donald W. Boecke, Verizon(Via U.S. Mail)
Eric Samp, GWI(Via U.S. Mail)

RRP – Biddeford Internet Corporation d/b/a Great Works Internet - November 16, 2004
(Complaint 2 0f 2)

# Complaint

1. Biddeford Internet Corporation d/b/a Great Works Internet ("Great Works Internet" or "GWI") is a Competitive Local Exchange Carrier ("CLEC") as that term is defined in Chapter 280 of the Commission's Rules. The Commission granted GWI authority to provide certain services in Maine as a CLEC by Order dated February 2, 2001 in Docket No.2000-972.

2. GWI is registered with the Commission to participate in the RRP process. Its RRP contact is T.C. Hazzard.

3. GWI is party to an Agreement between it and Verizon New England, Inc., d/b/a Verizon Maine ("Verizon"), which Agreement is commonly known as an "Interconnection Agreement". The Interconnection Agreement between GWI and Verizon, as amended, has been approved by the Commission by Orders dated December 18, 2001 (Docket No. 2001-779), April 30, 2002 (Docket No. 2002-188) and June 17, 2003 (Docket No. 2003-383).

4. As part of its overall business, GWI provides broadband Internet service in Maine to just under 7,000 residential and business customers by means of line sharing arrangements with Verizon. Under the terms of the Interconnection Agreement, line sharing is described as an arrangement by which Verizon facilitates GWI's provision of DSL service to a customer over an existing copper loop that is used simultaneously by Verizon to provide voice service.

5. Verizon has taken the position that line sharing is no longer available under the Interconnection Agreement. Verizon has argued that after October 1, 2004, line sharing need not be made available for any new customers and that for customers in place before that date who are still taking DSL service, service is available only pursuant to certain transitional rules. Under a temporary agreement in effect only through January of 2005, Verizon is continuing to provide line sharing to GWI for new customers.

6. As part of the proceeding before the Federal Communications Commission ("FCC") that culminated in the *Triennial Review Order* ("*TRO*"), Verizon, along with other Incumbent Local Exchange Carriers, urged the FCC to remove line sharing as a mandatory UNE under 47 U.S.C. § 251. In the *TRO*, the FCC eliminated line sharing as a mandatory UNE under 47 U.S.C. § 251 because it found that CLECs would not be impaired without unbundled access to the high frequency portion of the loop. In so finding, the FCC specifically concluded, "the increased operational and economic costs of a stand-alone loop (including costs associated with the development of marketing, billing and customer care infrastructure) are offset by the increased revenue opportunities afforded by the whole loop." *TRO* at ¶ 258. The FCC decided to eliminate line sharing under § 251 because it wished to strengthen the incentives for CLECs to take advantage of revenue opportunities associated with use of the whole loop. ¶ 261.

7. Verizon has continued to argue that there is no need to permit CLECs access to line sharing arrangements because of the revenue opportunities available from use of the whole loop. As recently as October 28, 2004, Verizon was arguing to the Maine Commission, in opposition to Cornerstone's Petition for Reconsideration in Docket No. 2002-682, that Cornerstone's claim DSL service in rural Maine would be

unprofitable if providers are required to purchase the full loop at the full loop rates cannot be substantiated. Verizon asserted "Cornerstone has the same opportunity to turn a profit in a rural exchange as Verizon Maine and any other CLEC – by offering a full complement of voice, data and ancillary telecommunications services." Verizon Opposition at 4.

8. In an attempt to respond to the arguments of the FCC and Verizon and to find ways to operate profitably, GWI has been working to develop efficient methods for adding voice communication as a service offering to its current DSL customers and as a service to be bundled with DSL service for new customers. GWI is prepared to begin rolling out those services.

9. In an early test of the voice service, GWI sent an order to Verizon seeking to "hot cut" one of its DSL customers to voice service. GWI followed what it believed to be the applicable procedure for such an order. The order was rejected because the loop was associated with a line sharing arrangement.

10. Upon further discussion with Verizon, GWI now understands that the Verizon ordering process will not accommodate the provision of GWI voice service to a current DSL customer of GWI without an interruption in the DSL service of at least five business days.

11. The prospect of an interruption in DSL service for most if not all consumers of broadband Internet services would act as a serious deterrent for the marketing of voice service. It would be extremely unlikely that GWI could sell voice service to existing DSL customers. That conclusion is directly contrary to assertions consistently made by Verizon in Maine and elsewhere.

12. Verizon has not informed GWI and GWI is not aware of any compelling business reason that the interruption in DSL service is necessary. Verizon should be compelled to modify its business processes so as to eliminate any such interruption.

Frederick S. Samp, General Counsel
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## Bragdon, Trina M.

**From:** donald.w.boecke@verizon.com
**Sent:** Wednesday, November 24, 2004 2:07 PM
**To:** Bragdon, Trina M.
**Cc:** ann.m.morrison@verizon.com; 'Eric Samp'; karen.b.romano@verizon.com; legal@gwi.net; pamela.j.porell@verizon.com; PUC, RapidResponse; robert.d.meehan@verizon.com
**Subject:** RE: GWI RRP Complaints

DESCRIPTION OF GWI COLLO.doc

Trina,

This will serve as Verizon's status report, which you requested on our conference call last Friday.

Verizon's principal Product Manager involved in GWI's request is on vacation this week. Verizon nonetheless participated in a conference call with GWI on Monday, Nov 22, to ascertain and confirm the relevant facts, in order to keep the request moving forward.

While Verizon must discuss the specifics of GWI's request with the Product Manager on her return to work next week, we have learned that the arrangement GWI is seeking from Verizon -- the migration of "line sharing" loops to voice grade (xDSL-compatible) loops, accompanied by the porting of the POTS telephone number -- is an industry issue that is already under review in at least two separate industry fora: (1) the CLEC User Forum (or "CUF") as well as; (2) a formal CLEC Change Management request. The CUF project is examining number porting for POTS voice service where the existing arrangement is a "line share" (i.e, the end user is receiving voice service from Verizon but DSL service from a DLEC, and a separate CLEC now seeks to "port" the voice-only POTS service. The Change Management request involves a request from a DLEC (like GWI) that seeks to port the POTS spectrum capability and telephone number to itself where it already serves the end user with DSL service via a line sharing arrangement. The two projects, however, are related in that both requests would require that Verizon be able to convert an existing line sharing UNE arrangement to a voice grade (i.e., full) UNE loop, in a manner coordinated among affected carriers that supports minimal interruption of both the voice and data services to the end user.

I cannot be more specific until I have been able to review this matter with the Product Manager. What I have gleaned so far, however, indicates to me that significant work activity lies ahead by both Verizon and requesting CLECs to work out these issues.

Also attached below is a description of the application of Verizon's Collocation tariff to the augment request GWI must make in order to add voice grade terminations in its existing collocation arrangements.

(See attached file: DESCRIPTION OF GWI COLLO.doc)

Donald W. Boecke
Assistant General Counsel
Verizon New England

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